

Appl. No. 09/470,100
Amdt. Dated February 4, 2005
Reply to Office Action of November 4, 2004

REMARKS/ARGUMENTS

This Amendment is in response to an Office Action mailed November 4, 2004. An Examiner's Interview was conducted on February 2, 2005 and a suggestion was made by the Examiner to resubmit the claims as pending and further amendments to highlight the differences between the claimed invention and the cited references. In order to facilitate prosecution of the subject application, Applicants respectfully request the Examiner to contact the undersigned attorney to further discuss the allowability of the claims. The undersigned attorney may be contacted at the phone number listed below.

In the Office Action, objections were made to claims 2 and 3 based on alleged informalities. Claim 3 has been amended to remove the additional "for" wording, but Applicant respectfully points out that claims 2 and 3 have already been revised with the phrase "to tune" in lieu of "to tuncs" as suggested by the Examiner. A copy of the page of the response is enclosed as Appendix A. Based on the foregoing, withdrawal of the objection is respectfully requested.

In addition, claims 1-8, 12-15 and 18-23 were rejected under 35 U.S.C. §103(a). Reconsideration in light of the amendments and remarks made herein is respectfully requested.

Rejections Under 35 U.S.C. § 103(a)

A. REJECTION OF CLAIMS 5-8, 12-15 AND 21

Claims 5-8, 12-15 and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Broberg (U.S. Patent No. 6,529,680) in view of Stinebruner (U.S. Patent No. 6,133,910). Applicants respectfully traverse the rejection because a *prima facie* case of obviousness has not been established.

As the Examiner is aware, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. See *MPEP* §2143; see also *In Re Fine*, 873 F. 2d 1071, 5 U.S.P.Q.2D 1596 (Fed. Cir. 1988). Herein, at a minimum, the combined teachings of the cited references do not describe or suggest all the claim limitations.

With respect to claim 5, neither Broberg nor Stinebruner, alone or in combination, suggest a selector controlled by the processor to (1) *select a first default source* of the plurality of sources *in response to detecting a non-overlapping channel number* for television programs provided by the plurality of sources and *automatically* program the system to tune to a station for receiving television programs *provided by the first default source* and (2) *select a second default source* of the plurality of sources *in response to detecting an overlapping channel number* for television programs provided by the plurality of sources and *automatically* program the system to tune to a station for receiving television programs provided by the second default source. *Emphasis added.* It is noted that the combined teaching of Broberg and Stinebruner is directed

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to substitution of local channels in the event of an overlapping channels, but there is no teaching or suggestion of selecting default sources *in response* to detecting overlapping or non-overlapping channel numbers. In fact, both Broberg and Stinebruner teach manual selection of default sources only. See column 5, lines 43-63 of Broberg; column 11, lines 30-32 of Stinebruner.

With respect to claim 12, neither Broberg nor Stinebruner, alone or in combination, suggest a determination of overlapping channels, and *in response* to determined any overlapping channels, the following operations are performed: (1) listing the plurality of sources using the overlapping channel numbers; (2) selecting a second default source among the listed plurality of sources to program the overlapping channel numbers, and (3) automatically programming the overlapping channel numbers to tune to a station for receiving television programs provided by the selected second source.

With respect to claim 21, neither Broberg nor Stinebruner, alone or in combination, suggest (1) display[ing] *at least one pop-up for selecting a first source* of the plurality of sources from the electronic system guide as a first default source *and a second source* of the plurality of sources as a second default source, and (2) *automatically programming the channel number to tune to a station for receiving television programs provided by the selected first default source in response to the channel number being the non-overlapping channel number* and programming the channel number to tune to a station receiving television programs provided by the selected second default source *in response to the channel number being the overlapping channel number*. Emphasis added. As stated above, it is noted that the combined teaching of Broberg and Stinebruner is directed away from selecting a particular "default" source *in response* to detecting overlapping or non-overlapping channel numbers.

In light of the foregoing, Applicants respectfully request the Examiner to allow claims 5, 12 and 21 as well as those claims dependent therefrom.

B. REJECTION OF CLAIMS 1-4

Claims 1-4 were rejected under 35 U.S.C. §103(a) as being unpatentable over Broberg in view of Morrison (U.S. Patent No. 6,359,580). Applicants respectfully traverse the rejection because, again, a *prima facie* case of obviousness has not been established.

Similar to the arguments set forth above, neither Broberg nor Morrison, alone or in combination, suggests an electronic program guide (EPG) including a user-selected option to cause an auto-program to be processed. The auto-program, as claimed, causes a display of at least one pop-up for selecting a first source of the plurality of sources from the electronic system guide as a first default source *and a second source* of the plurality of sources as a second default source. Furthermore, the auto-program, when processed, automatically programs the channel number to tune to a station for receiving television programs provided by the selected first default source *in response to the channel number being the non-overlapping channel number* and program the channel number to tune to a station receiving television programs provided by the selected second default source *in response to the channel number being the overlapping channel*

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number. Emphasis added. It is respectfully submitted that the combined teachings of Broberg and Morrison do not provide any suggestion of the claimed limitations.

In light of the foregoing, Applicants respectfully request that claim 1 and dependent claims 2-4 be allowed at the Examiner's earliest opportunity.

C. REJECTION OF CLAIMS 18-20, 22 AND 23

Claims 18-20, 22 and 23 were rejected under 35 U.S.C. §103(a) as being unpatentable over Broberg in view of Stinebruner and Farleigh (U.S. Patent No. 6,208,388). Applicants respectfully traverse the rejection because a *prima facie* case of obviousness has not been established and incorporates the arguments set forth in Section A of the Remarks section.

In summary, Applicants respectfully request that the Examiner to reconsider and withdraw the §103(a) rejection of claims 1-8, 12-15 and 18-23 under 35 U.S.C. § 103(a). Withdrawal of these rejections is respectfully requested. The undersigned attorney invites the Examiner to contact him if further elaboration would facilitate prosecution of the subject application.

Conclusion

Applicants respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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Susan McFurlane

February 4, 2005

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